

John Mejia (Bar No. 13965)
Leah Farrell (Bar No. 13696)
American Civil Liberties Union of Utah
355 North 300 West
Salt Lake City, UT 84103
T: (801) 521-9862
jmejia@acluutah.org
lfarrell@acluutah.org

M. Laughlin McDonald*
American Civil Liberties Union Foundation
2700 International Tower
229 Peachtree Street, NE
Atlanta, GA 30303
T: (404) 500-1235
lmcdonald@aclu.org

Ezra D. Rosenberg*
Arusha Gordon*
Lawyers' Committee for Civil Rights Under
Law
1401 New York Ave., Suite 400
Washington, D.C. 20005
T: (202) 662-8600
erosenberg@lawyerscommittee.org
eoconnor@lawyerscommittee.org
agordon@lawyerscommittee.org

Maya Kane*
10 Town Square, #52
Durango, Colorado 81301
T: (970) 946-5419
mayakanelaw@gmail.com

William A. Rudnick*
DLA Piper LLP (US)
203 North LaSalle Street, Suite 1900
Chicago, IL 60601
T: (312) 368-4000
william.rudnick@dlapiper.com

Raymond M. Williams*
DLA Piper LLP (US)
One Liberty Place
1650 Market Street, Suite 4900
Philadelphia, PA 19103
T: (215) 656-3300
raymond.williams@dlapiper.com

**Admitted pro hac vice*

ATTORNEYS FOR PLAINTIFFS

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH
CENTRAL DIVISION**

NAVAJO NATION HUMAN RIGHTS
COMMISSION; PEGGY PHILLIPS; MARK
MARYBOY; WILFRED JONES; TERRY
WHITEHAT; BETTY BILLIE FARLEY;
WILLIE SKOW; and MABEL SKOW,

Plaintiffs,

Case No. 2:16-cv-00154 JNP

v.

SAN JUAN COUNTY; JOHN DAVID
NIELSON, in his official capacity as San
Juan County Clerk; and PHIL LYMAN,
BRUCE ADAMS, and REBECCA
BENALLY, in their official capacities as San
Juan County Commissioners,

Defendants.

**PLAINTIFFS' MOTION TO SUBMIT SUPPLEMENTARY EVIDENCE IN SUPPORT
OF MOTION FOR PRELIMINARY INJUNCTION**

On September 21, 2016, the parties appeared before this Court for a hearing on Plaintiffs' Motion for Preliminary Injunction. Since the hearing, two events have occurred which bear on the issue of the adequacy of translation services raised in that Motion: (1) the posting by Defendants of the County's 2016 General Election Sample Ballot ("Sample Ballot"), Exhibit A hereto¹, and (2) the deposition of County Clerk Nielson, Exhibit B hereto, which sheds light on the prior testimony of Election Liaison Tapaha. Plaintiffs, accordingly, request leave from this

¹ Accessible online at:
<http://sanjuancounty.org/documents/2016%20General%20Election%20Sample%20Ballot.pdf>
(last accessed October 4, 2016)

Court to submit this supplemental evidence in support of their pending Motion for Preliminary Injunction.

The Sample Ballot includes three constitutional amendments with complicated language and provides further evidence that uniform training of translators is necessary to effectively provide language assistance to Navajo voters on Election Day. For example, Constitutional Amendment B asks voters whether they are “for” or “against” changes to the State School Fund, such as allowing “earnings” to be distributed from the State School fund rather than “interest and dividends.” Ex. A at 2.

San Juan County Election Liaison Ed Tapaha has stated that providing translation of amendments on the ballot can be a “challenge” and a “very involved process.” Opp. Br. Ex. 9 at 36:8-17. To translate these provisions, Mr. Tapaha has to “think real hard [about] how to translate words,” and he has “had to have help from other folks [on] how to translate.” Opp. Br. Ex. 9 at 36:17-25. If Mr. Tapaha has such difficulty translating constitutional amendments and requires assistance to ensure the accuracy of his translation, it follows that the translators he employs will also require significant training to effectively translate the material on the ballot in November. However, in his deposition last week County Clerk Nielson testified that Tapaha has not begun training translators and does not know when such training will be scheduled, even though ballots are scheduled to be mailed out in a week’s time. Ex. B (Nielson Deposition); 118:7-9.

Accordingly, Plaintiffs respectfully request that this Court grant them leave to file the Sample Ballot and the excerpt from the deposition of Mr. Nielson as supplementary evidence in support of their pending Motion for Preliminary Injunction.

Dated: October 4, 2016

BY:

/s/ John Mejia

John Mejia (Bar No. 13965)
Leah Farrell (Bar No. 13696)
American Civil Liberties Union of Utah
355 North 300 West
Salt Lake City, UT 84103
T: (801) 521-9862
jmejia@acluutah.org
lfarrell@acluutah.org

M. Laughlin McDonald*
American Civil Liberties Union Foundation
2700 International Tower
229 Peachtree Street, NE
Atlanta, GA 30303
T: (404) 500-1235
lmcdonald@aclu.org

Ezra D. Rosenberg*
Arusha Gordon*
Lawyers' Committee for Civil Rights Under Law
1401 New York Ave., Suite 400
Washington, D.C. 20005
T: (202) 662-8600
erosenberg@lawyerscommittee.org
agordon@lawyerscommittee.org

Maya Kane*
10 Town Square, #52
Durango, Colorado 81301
T: (970) 946-5419
mayakanelaw@gmail.com

Raymond M. Williams*
DLA Piper LLP (US)
One Liberty Place
1650 Market Street, Suite 4900
Philadelphia, PA 19103
T: (215) 656-3300
raymond.williams@dlapiper.com

**Admitted pro hac vice*

CERTIFICATE OF SERVICE

This is to certify that on October 4, 2016, a true and correct copy of the foregoing document was served on the following individuals via the Court's ECF system:

Jesse C. Trentadue
Carl F. Huefner
Britton R. Butterfield
SUITTER AXLAND, PLLC
8 East Broadway, Suite 200
Salt Lake City, UT 84111

Attorneys for Defendants

/s/ John Mejia _____